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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BELL, PAUL A	

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/809,583	NISHI, JUNICHIRO	
	Examiner	Art Unit	
	PAUL A BELL	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *11/02, 4/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Friedland et al. (6,449,601).

With regard to claim 1 Friedland et al. teaches a real-time auction (SEE Friedland et al. column 1, lines 4-10 "The present invention relates to the distribution of **live auctions** over a communications medium to remote bidders, and, in particular, to a method for efficiently monitoring a live auction, distributing real-time information concerning the live auction to remote bidders, and collecting bids from remote users and submitting the collected bids at the live auction. "), system comprising: a first computer operated by an auction organizer(SEE Friedland et al. figure 4 item 402 "computer 402" auction console program runs in 402 located on-site at the live auction) ,a second computer operated by an assessor who exhibits and sells products (SEE Friedland et al. column 7 lines61- column 8, lines 9 "FIG. 3 illustrates, at a high level, the DLA methodology for implementing Internet-based live auctions. The live auction occurs in front of a live audience of bidders 302. The auction is conducted by one or

more auctioneers 304. A DLA human proxy 306 is also present within the in-person audience of bidders. The DLA human proxy 306 monitors the auction, including bids made by in-person bidders as well as statements made by the auctioneer 304, and enters the bids and statements into the DLA auction console running on a computer system 308. In a preferred embodiment, a laptop PC may be used to run the DLA auction console for reasons of ease of use and portability. The information regarding the status of the auction entered by the DLA human proxy 306 into the DLA auction console running on the computer 308 is transferred via the Internet 310 to the DLA auction server 312."), a plurality of third computers operated by buyers (SEE Friedland et al. figure 4, items 428-437 "a remote bidders computers), a fourth computer in a center for processing, (SEE Friedland et al. figure 4, item 404 "the auction server program running on the server computer 404 is directly interconnected via a communications network 410 to a number of root-level collector/ redistributer nodes 412 and 414) all of the computers being connected to an online system for receiving and sending data on an auction (SEE Friedland et al. figure 4, item 410, interconnected via a communications network 410 to a number of root-LEVEL collector/ redistributer nodes 412 and 414) he auction being performed as follows: step 1: the buyers bid a price for a product during a first predetermined time period, with the bid price being transmitted to the first computer (SEE Friedland et al. figure item 1304 "BID FROM USER"), step 2: status of bidding on the product is transmitted to all of the computers over the online system (SEE Friedland et al. figure 13 item 1306 "UPDATE AUCTION STATUS SCREEN"), step 3: the organizer, the assessor and the buyers confirming the

bidding status during a second predetermined time period (SEE Friedland et al. item 1308 "STATUS FROM AUCTION SERVER"), step 4: if there is more than one bid above a reserve price for the product set by the assessor, step 1, step 2 and step 3 are repeated a predetermined number of times until there is only one bid left (this step would be inherent if you have two equal bids and only one item to sell), the one bid left being the successful bidder (again inherent that the highest bidder get item for sale).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al. (6,449,601) in view of Alaia et al. (6,230,146) and Fritsch et al. (US 2002/0023039).

With regard to claim 2 Friedland et al. does not illustrate the real-time auction system of claim 1 wherein screens of the third computers have a time indicator, a bid price indicator and a bid button; and wherein during the first predetermined time period a gradually increasing price is displayed on the bid price indicator from a start price to a ceiling price while the time indicator rises at the same time and at the same speed

However Alaia et al. teaches in column 10, lines 10-20 "Bidder-specific bid rules enable an auction coordinator to maximize the competitive nature of an auction. In a downward auction, each bidder is assigned an individual bid ceiling by the buyer. This

bid **ceiling sets a maximum bid price that can be submitted by a supplier**. The bid ceilings are advantageous to the buyer because it prevents a bidder from withholding pre-auction bids from the market. And figure 6B teaches **current time 10:27 AM** and closing time of each auction)

And Fritsch et al. (US 2002/0023039) teaches in ABSTRACT: "An auction system and method is disclosed which displays a **graphical representation** of a **buy bid** and **ask bid** along a scale. A user may enter a new bid by moving the computer screen cursor to a position on the scale and **initiating an entry command**. The system then reconfigures the scale to reflect the newly entered bid." (reads on bid button) and SEE section [0030] "With continued reference to **FIG. 3**, there is illustrated an example of an automatic auction wherein the starting sell offer (bid) is $50.00 as shown in current offer amount window 320, and the starting buy bid is $40.00 as shown in the buy current bid amount window 370. The system automatically set the new sell offer amount identifier window 340 at the next **decreasing incremental level** of $49.00 and the new buy bid identifier window 390 at the next **increasing incremental level** of $41.00. Graphically, the sell bid selector 310 also **incrementally illustrates** the prospective new sell offer amount of $49.00. It should be noted that the difference between the current offer of $50.00 and the new sell offer amount of $49.00 is colored or shaded, herein cross-hatched, differently from that of the current bid so that users can readily identify the difference. Similarly, the difference between the current bid amount of $40.00 and the new buy bid amount of $41.00 is graphically indicated by difference in color, shading or as herein cross-hatching. And SEE section [0031] As

shown in FIG. 4, a user, in this example a buyer, may disregard the automatic incremental increase in the next sell offer or buy bid shown by the cross hatched section in order to increase the user's bid in an amount greater than the one incremental level. To do so, the user moves the screen cursor 435 to the incremental level upon the buy bid selector 360 which represents the user's desired buy bid. Herein, the buyer has bypassed the automatic buy bid of $41.00 and has instead moved the cursor to the $44.00 increment level upon the buy bid selector 360. The user then initiates an **entry signal by conventionally clicking upon the computer mouse left click key**. Entry results monetary values in the graphical incremental level are shown in the new buy bid amount identifier window 390. Thus, the user is able to confirm the desired entry both graphically upon the buy bid selector 360 and numerically within the new bid amount identifier window 390.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Friedland et al. graphical user interface of bidder computer 3 the features taught by Fritsch et al and Alaia et al. because the improved GUI would have provided more information to the user and would have made it easier to use .

With regard to claim 3 the combination of Friedland et al. / Fritsch et al. / Alaia et al. teaches the real-time auction system of claim 2 wherein the buyers may click on the bid button when the bid price indicator reaches a price the buyers want to bid (SEE Fritsch et al section [0031]).

With regard to claims 4, 8 and 9 Friedland et al. / Fritsch et al. / Alaia et al. ## teaches the real-time auction system of claims 3, 1 and 2 wherein the buyers may enter a pre-entered bid before the auction opens; the pre-entered bid being entered by the buyers when the auction is open and being treated as maximum bid prices (SEE Friedland et al. figure 2 item 206 PREBID) .

With regard to claims 5, 10, 11, 12, and 13 Friedland et al. / Fritsch et al. / Alaia et al. teaches the real-time auction system of claims 4, 1, 2, 3, and 4 wherein if no bid is above the reserve price for the product set by the assessor, the assessor can designate the buyer who bid the highest price as the successful bidder on the second computer (SEE Friedland et al. figure 2 item 240 "SUFFICIENT BID").

With regards to claims 6, 14, 15, 16, 17, and 18 Friedland et al. / Fritsch et al. / Alaia et al. teaches the real-time auction system of claim 5, 1, 2, 3, 4, and 5 wherein a first bidder who enters a price that is above the reserve price for the product set by the assessor can see an indication that the first bidder was the first to enter such a price (inherent feature of system because the first bidder knows what he bid and if he sees it come up on screen he knows he was first).

With regard to claims 7, 19, and 20 Friedland et al. / Fritsch et al. / Alaia et al. teaches the real-time auction system of claim 6, 1, and 2 further including electromagnetic media for storing computer programs used by the first computer, the second computer, the plurality of third computers and the fourth computer (SEE Friedland et al. figure 4 , item 406 "DATA BASE").

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bezos et al. (6,606,608), "METHOD AND SYSTEM FOR PROVIDING A DISCOUNT AT AN AUCTION ", teaches "IG. 2 illustrates a web page through which a bidder may bid for the item being auctioned. The web page 200 includes a name field 201, a detailed a information link 202, an auction status area 203, a bidding area 204, an at-a-glance link 205, a bid history link 206, and a detailed information area 207. The name field contains the name of the auction. The detailed information link allows the bidder to display detailed information about the item being auctioned, such as a picture and description of the item as shown in the detailed information area. The auction status area contains information describing the **current state of the auction**. For example, the auction status area identifies the seller, identifies the **highest bidder**, indicates when the auction will close, indicates the **quantity of the item** that is being auctioned, the **number of bids** that had been received, and the **minimum bid**. A bidder enters a bid through the bidding area. The bidder enters the maximum bid that they are willing to pay for the item and then **selects the bid now button.** The auction system may automatically place bids for the bidder up to that maximum amount. The bidder selects the bid now button to place the bid."

Alsberg et al. (2001/0032162) "METHODS AND SYSTEMS FOR MARKET CLEARANCE" teaches in section [0002] "The present invention relates to electronic commerce over a network, such as the Internet or the public telephone

network. More specifically, the invention relates to methods and systems for market clearance that aggregate demand and supply in a marketplace and that generate accurate **real-time** valuable marketplace information. [0009] Another venue is an auction in which buyers have a limited bidding period to offer a price for a seller's product. In an auction, multiple buyers bid for the product and the price rises during the bidding period. While bidding may start at a very low price, the seller has the option of setting a **"reserve price"** below which the seller will not have to complete the sale. **The transacting buyers will be those buyers offering the highest prices that equal or exceed the seller's reserve price**. [0049] Reserve prices can be either honest or postured. An honest reserve price is the least favorable price at which the offeror is willing to transact. A postured reserve price is a price that is more favorable to the offeror than the offeror's honest reserve price.

Tim Dees. "ONLINE AUCTIONS REVIEWED", Law & Order. Wilmette: Jan 2000.Vol. 48, Iss. 1; pg. 21, 2 pgs. Teaches; "The other method is to establish **a "reserve" price** when the item is put on the block. **This insures against a low bid without revealing how low you are willing to go on**. When an item is offered on a reserve auction, a notation next to the current bid will indicate whether or not the reserve has been met. Buyers don't know the exact amount of the reserve, although they see when their bid has met the reserve. If bids don't meet the reserve, the seller doesn't have to sell."

CHUCK MELVIN, "BEFORE THE BIDDING BUYING AND SELLING IN CYBERSPACE CAN BE EASY AND EVEN FUN. HERE'S A CRASH COURSE; [FINAL / ALL Edition", *PLAIN DEALER REPORTER*. The Plain Dealer. Cleveland, Ohio: Jul 19, 1999. pg. 5.C Teaches; "Sellers who are unsure of the value of an item can specify a **"reserve price"** - higher than the requested minimum bid - that is kept secret by eBay. **If no bid reaches that price, the seller can refuse to sell the item**.

MADELEINE McDERMOTT HAMM, "BIDS WITH BYTE / AUCTIONS ENTER BRAVE NEW WORLD OF THE INTERNET; [2 STAR Edition]",Houston Chronicle Home Design Editor. *Houston Chronicle*. Houston, Tex.: Jun 24, 1999. pg. 1 teaches; "Just as items are displayed for preview in the auction house days before a sale, every item slated for an online auction at Hart Galleries will be posted on the LiveBid.com site long before the auction. They are listed in the order they will be sold, and each one can be clicked on to see a photograph, description, estimated selling price and highest advance bid. **Internet bids can be placed during the preview, just as a sealed bid can be given to an auction house in advance."**

Glenn McDonald, "THE BIDDING GAME", *PC World*. PC World Online. San Francisco: Aug 28, 1998. pg 1 teaches; "Now you're ready to place a bid on your item. **Unlike real-life auctions, the online type can last from a day to a week or more.** The most common style is the Yankee auction, in which multiple bidders can bid on a single item or several identical items. The highest bidder or bidders win the goods when the auction closes. When an auction starts, **there is a minimum bid**--usually an absurdly low amount that changes fast, like $1 for a ten-speed bike or $299 for a mid-

range PC system. **You then bid by clicking a button that increases the minimum bid by a preset amount**. Your bid remains as the top bid until another user ups the ante once again, and so on."

"Several sites use a process called proxy bidding in which you determine at the beginning the maximum amount you're willing to pay. From there, as others enter new top bids, your bid is automatically upped by the preset amount until your maximum is reached."

"Another type is the more immediate Dutch auction, in which the price of an item drops incrementally every few seconds until a user swoops in for the bid. OnSale offers a person-to-person option called Open Reserve in which the seller posts **a "Reserve Bid Price"** instead of a "Minimum Bid." Buyers may place bids for any amount above or below the posted Reserve Bid Price. **However, the seller is not obligated to accept bids and complete transactions below the posted Reserve Bid Price**.

Place a bid early. If there's a tie when the auction closes, the early bid wins.

Use proxy bidding when possible. Proxy bidding lets you establish a maximum amount you're willing to spend. **The site will bid on your behalf, but only enough to outbid the previous high bidder**. When your maximum is exceeded, you drop out. (You can raise your maximum bid later and rejoin bidding.) Note the auction's closing time. If the item is still within your price range, you may be able to sneak in a last-minute bid just as bidding closes. (Auction sites usually keep bidding open five minutes after the last bid,

even if that means going past the close. You'll often see a lot of furious bidding toward close for in-demand items.)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Bell whose telephone number is (703) 306-3019. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached at 703-308-0505.

Information regarding the status of an application may be obtained from Patent Application Information Retrieval (PAIR) system, see http://pair-direct.uspto.gov. For help with PAIR call Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
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Paul Bell
Art unit 3628
March 21, 2005

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